IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 163 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO LTD

Versus

RANCHHODBHAI VAJABHAI PATEL KOLI

Appearance:

MR SANDIP C SHAH for Petitioner No. 1

MR UM SHASTRI for Respondents No. 1 to 6

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE H.H.MEHTA

Date of decision: 07/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. The learned advocate for the appellant seeks permission to delete respondents Nos.7 and 8 from the record of the First Appeal. Permission is granted. Respondents Nos.7 and 8 stand deleted from the record of the First Appeal. The amendment in the cause title of the First Appeal be carried out forthwith.

2. Admitted. Learned advocate Mr.U.M.Shastri, waives service of notice of admission on behalf of respondents Nos.1 to 6 (original claimants). On a joint request of the learned counsel for the parties, this appeal is taken up for hearing today.

3. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 at the instance of the Insurance Company challenging the judgment and award dated October 27, 1999, passed by the Motor Accident Claims Tribunal (Aux.), Panchmahals, at Godhra, in M.A.C. Petition No.40 of 1992.

4. The learned counsel for the appellant has pressed this appeal only on the ground of interest awarded by the Tribunal on the amount of compensation determined as payable.

5. The Tribunal in fact has awarded interest at the rate of 15% per annum on the compensation determined by it from the date of the claim petition till realization. It is in the context of this rate of interest that we are required to examine the present appeal.

6. The question of interest is no doubt within the discretionary jurisdiction of the Tribunal, but in the light of various decisions of this Court, the rate of interest has to be tempered with the economic reality prevailing in the country and the rates of interest prevailing generally in the market from time to time.

7. After considering various relevant and pertinent factors, this Court has in a number of decisions adopted a slab system of awarding interest, particularly where the interest awarded by the Tribunal has not been so exorbitant so as to shock the conscience of the court. Thus, on the facts and circumstances of the case and in consonance with the earlier decisions of this Court, we hold and direct that the original claimant shall be entitled to interest on the amount of compensation awarded by the Tribunal under the impugned award at the rate of 12% per annum from the date of claim petition upto 31st December 1999 and at the rate of 9% thereafter till realisation.

8. The impugned judgment and award are modified only to the aforesaid extent and the rest of the award stands confirmed.

9. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree be drawn accordingly. Direct service is permitted.

December 7, 2001 (M.H. Kadri, J.)

(H.H. Mehta, J.)
(swamy)